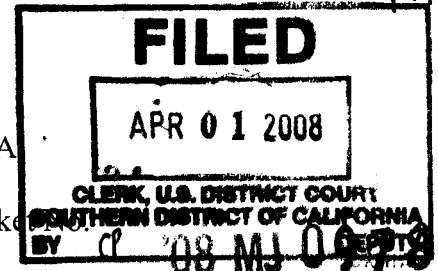


FAS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA



UNITED STATES OF AMERICA,

Plaintiff,

v.

Mike ORTEGA,

Defendant

) Magistrate Docketed
)
)
) COMPLAINT FOR VIOLATION OF: DEPUTY
)
) Title 8, U.S.C., Section 1326
) Deported Alien Found in the
) United States
)
)
)

The undersigned complainant, being duly sworn, states:

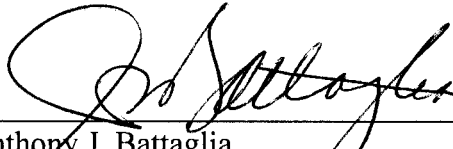
On or about **March 28, 2008** within the Southern District of California, defendant, **Mike ORTEGA**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **1ST** DAY OF **APRIL, 2008**.



Anthony J. Battaglia
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Mike ORTEGA

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

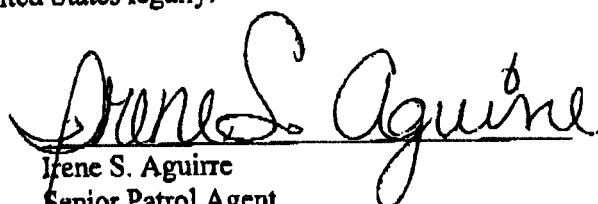
On March 28, 2008, Senior Patrol Agent V. Arguello, was performing line watch duties in an area known as "Border Field State Park". "Border Field State Park" is approximately five miles west of the San Ysidro, California Port of Entry, on the Imperial Beach coastline and immediately north of the U.S./Mexico International Boundary Fence. Undocumented aliens attempting to further their illegal entry into the United States frequently use this area. At approximately 8:30 PM, National Guard West High Point observers notified me via service radio of several individuals running on the beach, northbound from the International Boundary Fence.

Agent Arguello arrived in the area and observed five individuals in the surf shouting for help. All five individuals were extracted from the water. Agent Arguello identified himself as a United States Border Patrol Agent and performed an immigration inspection. One subject later identified as the defendant Mike ORTEGA and the other individual admitted to being citizens and nationals of Mexico, illegally present in the United States without any immigration documents that would allow them to enter or remain legally. The defendant stated that he and the other individual had entered the United States illegally several minutes earlier by swimming around the International Boundary Fence. Subsequently, the defendant was arrested and transported to the Imperial Beach Border Patrol Station for processing.

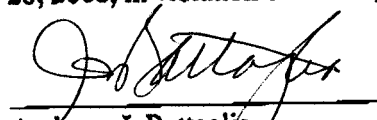
Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on December 16, 2003 through El Paso, Texas. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally.

Executed on March 30, 2008 at 10:00 A.M.


Irene S. Aguirre
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on March 28, 2008, in violation of Title 8, United States Code, Section 1326.


Anthony J. Battaglia
United States Magistrate Judge

3/30/08 12:40 pm
Date/Time